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Proceeding of the standing
committee on natural
resources

second session July 9,
24 parliament 1959

Government
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NATIONAL BUREAU OF STANDARDS

U. S. DEPARTMENT OF COMMERCE
BUREAU OF STANDARDS

STANDARD SPECIFICATIONS FOR

STEEL PIPES

FOR TRANSMISSION LINES

AND OTHER PURPOSES

STEEL PIPE

STEEL PIPE

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THE SENATE OF CANADA

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Publications



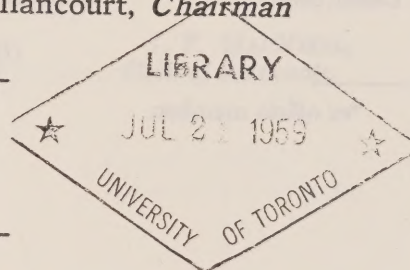
PROCEEDINGS
OF THE
STANDING COMMITTEE
ON

NATURAL RESOURCES

To whom was referred the Bill (C-49), intituled: "An Act to provide for the Establishment of a National Energy Board."

The Honourable Cyrille Vaillancourt, *Chairman*

No. 2



THURSDAY, JULY 9, 1959

WITNESSES:

Mr. Douglas M. Fraser, Director, Energy Studies Branch, Department of Trade and Commerce;

Mr. E. A. Driedger, Assistant Deputy Minister of Justice.

THE QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1959

THE STANDING COMMITTEE ON
NATURAL RESOURCES

The Honourable CYRILLE VAILLANCOURT, Chairman
The Honourable Senators

*Aseltine	Dupuis	McLean
Barbour	Emerson	Methot
Basha	Farquhar	Paterson
Beaubien	Fraser	Pearson
Bois	Gladstone	Petten
Bouffard	Haig	Power
Buchanan	Hayden	Raymond
Burchill	Higgins	Stambaugh
Cameron	Horner	Taylor (<i>Norfolk</i>)
Comeau	Kinley	Taylor (<i>Westmorland</i>)
Crerar	*Macdonald	Turgeon
Davies	McDonald	Vaillancourt
Dessureault	McKeen	Vien
		Wood—40

(Quorum 9)

**ex officio* member.

ORDER OF REFERENCE

Extract from the Minutes of Proceedings of the Senate for Wednesday, June 17th, 1959.

Pursuant to the Order of the Day, the Senate resumed the adjourned debate on the motion of the Honourable Senator Thorvaldson, seconded by the Honourable Senator Aseltine, for second reading of the Bill C-49, intituled: "An Act to provide for the Establishment of a National Energy Board".

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Thorvaldson moved, seconded by the Honourable Senator Pearson, that the Bill be referred to the Standing Committee on Natural Resources.

The question being put on the motion, it was—

Resolved in the affirmative.

J. F. MACNEILL,
Clerk of the Senate.



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THE SENATE
STANDING COMMITTEE ON NATURAL RESOURCES

OTTAWA, Thursday, July 9, 1959.

EVIDENCE

The Standing Committee on Natural Resources, which was instructed to study Bill C-49, to provide for the establishment of a National Energy Board, met this day at 10.30 a.m.

Senator Vaillancourt in the Chair.

The CHAIRMAN: Honourable senators, we have a quorum now. Do you wish to deal with the clauses that stand, or to continue as we did before, and return to the clauses that stand afterwards?

Senator BOUFFARD: Mr. Chairman, may I point out that this morning we had a meeting with Mr. Churchill, the Minister of Trade and Commerce, with regard to a few objections that some may have with regard to this bill, and I would like to ask that clause 2(h) and 2(m) stand. 2(h) has to do with the definition of "international power line"; and 2(m) has to do with the definition of "pipe line". Mr. Churchill is agreeable that those two items should stand; they are very important, and we explained the whole situation to him as to the overlapping with provincial rights. The same applies to clause 19. I think the minister has no objection that this clause stand; he wants to study this section. We have proposed some amendments to clause 2(h) and 2(m) which would be more practical as definitions, because it is felt that certain international power lines and pipe lines as described would not fall under the control of the Energy Board. The danger is that a whole line might fall under the control of the Energy Board and that a provincial line would lose control over the power from where it comes. Therefore this morning the minister agreed that these clauses be studied and reviewed, and then that the problem could be settled more easily. No doubt the minister would like to have a little time to think about it and to consult with his officials, and then we could probably come back with some ways and means of settling the whole situation.

The CHAIRMAN: If that is agreeable, then we will turn to sections 40, 41 and 42.

Senator BOUFFARD: Well, they all depend on 2(h) and 2(m).

The CHAIRMAN: Very well. Let us turn to page 15, Part IV. We have Mr. Fraser here, Director of the Energy Studies Branch, of the Department of Trade and Commerce, and Mr. G. W. Green, of the Energy Studies Branch, and also Mr. E. A. Driedger, Assistant Deputy Minister of Justice. Mr. Fraser, would you like to continue your statement from the previous meeting?

Mr. FRASER: Very well, Mr. Chairman, and honourable senators. The provisions of Part IV differ from those of Parts II and III of the Pipe Lines Act, in that the regulation of tolls now applies to both oil and gas pipe lines

rather than to oil lines alone, without any requirement that the latter be first declared by the board to be common carriers. Such regulation, too, is to be carried out by the new National Energy Board rather than as previously by the Board of Transport Commissioners.

The applicable recommendations of the Borden Commission were 11(a), (b) and (c), and 12. Those recommendations reserve the power of rate regulation to the Board of Transport Commissioners. This recommendation has not been implemented in the approved legislation. It was based upon the argument that the Board of Transport Commissioners already had personnel experienced in rate work, and that the transfer of this function would involve an unjustifiable duplication of administrative machinery. This duplication, however, would be more apparent than real, since pipe line rate work has been carried out by those already engaged in railroad and telephone rate work. It would disrupt the transport board if any of this staff were taken over by the Energy Board, but, if they were not, the latter would have to rely on inexperienced staff. Since pipe line rates have never before been controlled, staff would have to be added heavily in any event, as the Borden Commission suggested.

Mr. FRASER: It would seem to make little difference to which board such staff was added.

Secondly, economic feasibility, which is to be a first consideration in the Energy Board's certification procedure, could hardly be determined in the absence of knowledge of whether the Transport Board would approve the basic rate structure proposed. At the same time, the Transport Board was to be prohibited from hearing a rate case until the applicant had been granted a certificate by the Energy Board. The only solution to this dilemma seemed to be a close liaison between the two boards. Even assuming such liaison, however, it appeared probable that this separation of functions would only produce the duplication of personnel which it was intended to avoid, and would place the pipe line companies under the necessity of substantially duplicating their applications to two federal regulatory authorities.

Finally, it should be noted that there is still to be no regulation of rates on interprovincial movements of electric power. Although there may be some difficulty in logic in defending treatment of power transmission facilities different from that accorded to oil and gas pipe lines, there is an important practical distinction in that the lines and power plants supplying them are normally owned by a provincial authority or are provincial incorporations under close provincial regulation. This appears to be a case where the federal authority might well remain passive unless some problem presently unforeseen should arise.

This, Mr. Chairman, was a point we were attempting to foresee and deal with. It is the sort of point that Senator Bouffard has drawn attention to.

With respect to Section 50 itself, this provision is identical to Section 40 of the Pipe Lines Act, save that it now refers to both oil and gas.

Section 51 is identical to Section 42 of the Pipe Lines Act, save that it now refers to both oil and gas transmission companies.

Do you want to proceed clause by clause now, sir?

The CHAIRMAN: Yes. I think Clause 50 is correct.

Carried.

The CHAIRMAN: Clause 51?

Carried.

Senator METHOT: Where does it refer to only gas and oil?

Senator KINLEY: In the interpretation.

Senator BOUFFARD: Section 40 only affects gas and oil.

Mr. FRASER: Yes. Perhaps I have caused some confusion here, Mr. Chairman, in saying that Section 50 is identical to Section 40 of the Pipe Lines Act save that both oil and gas are now covered by this. In the Pipe Lines Act that was not the case. Only oil was affected there. Does that answer your question, sir?

Senator BOUFFARD: Does this not also apply to electric power?

Mr. FRASER: Yes, in those sections specified, sir.

Senator KINLEY: In this act are the rates set by the board final, or can they be appealed to the Governor in Council?

Mr. FRASER: There is no appeal to the Governor in Council.

Senator KINLEY: They have absolute authority over the rates?

Mr. FRASER: Yes, except that there is provision for appeal on matters of law or jurisdiction to the Supreme Court of Canada.

Senator KINLEY: I am thinking of the rates.

Mr. FRASER: That is right, sir. The point I am making is that unless there is a question of law or jurisdiction involved, the decision of the board is final.

Senator KINLEY: They set the price, and that is it?

Mr. FRASER: That is right, sir.

The CHAIRMAN: Clause 52?

Mr. FRASER: Clause 52 is identical to Section 43 of the Pipe Lines Act. Perhaps I should expand my remarks on this point; it is a fairly important clause.

Senator HIGGINS: Clauses 52 and 53 should be read together, should they not?

Mr. FRASER: Well, Clause 53 authorizes the board to disallow any tariff for a portion —

Senator HIGGINS: Clause 52 says that all tolls shall be just and reasonable, and the board decides what is just and reasonable?

Mr. FRASER: Yes.

Senator HIGGINS: So Clauses 52 and 53 should be read together?

Mr. FRASER: Yes: 52, 53 and 54, as a matter of fact.

THE CHAIRMAN: Will you explain Clause 52?

Mr. FRASER: Yes. Part of the Borden Commission's recommendation No. 12 dealing with fair rate of return has not been implemented in this legislation. This, in fact, was suggested by the Borden Commission itself in its report on a point where the Borden Commission said:

We have carefully considered whether the proposed legislation should fix the rate of return to be allowed on the shareholders' equity and whether this rate might be different in the case of oil or gas pipe lines or, alternatively, whether these matters should be left to the discretion of the Board of Transport Commissioners for Canada. We have concluded that it is preferable to allow the board to exercise its discretion in this regard, recognizing that in so doing it will strive to exercise its powers

in a fair manner and authorize rates, and thus a level of earnings having regard to the circumstances of each case, sufficient to attract the necessary capital. The flexibility which will obtain under such a plan is, in our view, particularly desirable.

That is the end of the quotation from the Borden Commission's report. To ensure that rates are both—

Senator KINLEY: Under the Public Utilities Act public utilities are guaranteed a profit, and they have a franchise that eliminates competition.

Mr. FRASER: I am sorry, sir, but I could not quite catch that.

Senator KINLEY: A public utility is set up on the principle that it has a franchise, and that it can make a profit.

Mr. FRASER: A reasonable profit.

Senator KINLEY: Yes. That is not in here. Although you might read it in this, it does not say so.

Mr. FRASER: Not in terms such as are found in the provincial public utilities acts, that is correct, sir. To ensure that rates are both fair and reasonable is a fundamental reason for the exercise of control by public authority over pipe line transmission systems. It appears to be desirable, however, to leave the exact method to the discretion of the board, rather than to attempt legislative definition. The board will no doubt establish some general criteria, but there is a good case for leaving it free to give weight to any particular circumstances in each case.

One particular merit of this flexible approach is that it will give scope for recognizing the distinction between gas pipe lines and oil pipe lines. As the commission noted, "A crude oil pipe line company provides a transportation link between the producer and the refiner and does not own the crude oil transmitted through the line. On the other hand, a gas pipe line company usually is the owner of the gas which it transports." That is a quotation from the Borden Commission's report.

Senator BRUNT: Would you repeat that.

Mr. FRASER: Yes: "A crude oil pipe line company provides a transportation link between the producer and the refiner and does not own the crude oil transmitted through the line. On the other hand, a gas pipe line company usually is the owner of the gas which it transports."

Senator BRUNT: If you take a gas line that was built in Alberta for the purpose of gathering the gas there—

Mr. FRASER: The Alberta Trunk?

Senator BRUNT: Yes. It does not own any gas.

Mr. FRASER: That, senator, is the outstanding exception, is it not?

Senator BRUNT: That is one I can recall. The pipe line from Minden to Saskatoon owns no gas—none at all. Those are two that I can think of and that I know of from my own personal knowledge.

Mr. FRASER: I suggest, with deference, sir, that you have hit on the two that exist in Canada. In any event, it is not my province to defend the Borden Commission's report.

Senator KINLEY: When you get an inter-provincial pipe line that does not apply, does it? The company owns the gas that it sends along?

Mr. FRASER: In the case of the two large gas transmission companies, Westcoast and Trans-Canada—they own the gas.

Senator KINLEY: They own the gas in the pipe line?

Mr. FRASER: Yes, sir. That was probably the fact at the time the Borden Commission's report was written.

Senator BRUNT: Both of those lines have been in existence for years.

Senator BUCHANAN: Not the trunk line.

Senator KINLEY: It is only something the commission says. What effect it has on this bill, I do not know.

Mr. FRASER: That is the end of the commission report.

The commission did not note the even more relevant distinction that a gas pipe line normally buys its gas on long-term contracts, and sells it on equally long-term contracts to distributing utilities which henceforward have no other source of supply, and whose customers in turn are, in some respects and to some degree, tied to the source of supply and cannot be cut off without hardship. A gas pipe line therefore has some of the characteristics of a public utility, and, as a monopoly, must expect regulation and a limited though fairly secure rate of return. An oil pipe line, by contrast, offers a transportation service to customer refineries which to some extent are free to obtain their oil supplies elsewhere, and are themselves subject to competition not only from highly mobile petroleum products refined elsewhere but, in some cases, from other fuels. The elements of risk and competition are therefore greater in the case of oil pipe lines than in that of gas pipe lines, and the returns required to attract capital may therefore be higher. Some elements of the oil industry on first reading of the Commission's Report feared that oil and gas pipe lines were to be judged alike on matters of "fair rate of return". The above quotation from the Report indicates that the Commission desired that the difference between the two kinds of pipe line be taken into account in the regulation of rates.

One aspect of the distinction between oil and gas pipe lines may result in a substantial problem of administration. This concerns the difference in pattern of volume of throughput. The throughput of a gas transmission line appears, on the basis of U.S. experience, to increase at a more or less steady rate from year to year. Field prices are normally on an escalated basis, and the profit incentive for the transmission company is to increase throughput more than sufficiently to cover additions to gas purchase prices and operating costs. There is a reasonably firm expectation that such rate of throughput increase is feasible. By contrast, since demand for oil is more flexible, and since there is competition between alternative sources of crude oil and alternative sources of products, the throughput of an oil pipe line is more variable; the history of the Trans Mountain Oil Pipe Line Company is a striking example. The Commission's proposal of a "fair return on shareholders' equity" might seem to require that pipe line tariffs or prices be decreased when throughputs are high, and be increased when throughputs are low. This would be apt to require more frequent variation in rates for oil than for gas pipe lines. However, the time when oil demand, and consequently pipe line throughput, is low, is the time when the need to cut costs is greatest: public pressure will be for oil pipe line earnings to be kept low in times of high throughput, but economic considerations will require that rates be kept low in times of low throughput. There may be some danger that the oil pipe lines may not, because of these two kinds of downward pressure on rates, be able to earn enough to attract capital.

Senator BRUNT: Mr Chairman, do you not think we could pass these?

Senator KINLEY: That is all that section 52 says:

All tolls shall be just and reasonable, and shall always, under substantially similar circumstances and conditions with respect to all traffic of the same description carried over the same route, be charged equally to all persons at the same rate.

It is all in the discretion of the Board.

Mr. FRASER: I am in your hands, Mr. Chairman.

Senator BOUFFARD: We can come back to it.

The CHAIRMAN: Shall section 52 carry?

Carried.

The CHAIRMAN: Shall sections 53 and 54 carry?

Carried.

The CHAIRMAN: Section 55?

Senator BOUFFARD: In this connection, I want to say that no one can sell at a tariff which is higher than that fixed by the board, in the case of most boards. There is no provision who would prevent a man from selling lower than the tariff; and of course if an oil company sells gas higher than the tariff it is bound to come back.

The CHAIRMAN: Shall section 55 carry?

Carried.

The CHAIRMAN: Shall sections 56 and 57 carry?

Carried.

The CHAIRMAN: Section 58?

Senator BOUFFARD: I would like that to stand. It seems to me that in contracts limiting liability of a company it should be done as it is under the Railway Act. In the ordinary way the Railway Act does not limit any contract by the railway. Here we have a difference, and the company only needs to file. I feel that a contract should not only be filed, but should be approved first, because if you file a contract it may be a long time before that contract is approved. Therefore I ask that this section stand.

The CHAIRMAN: Section 58 stands. Shall section 59 carry?

Carried.

The CHAIRMAN: Shall section 60 carry?

Carried.

The CHAIRMAN: Shall section 61 carry?

Carried.

The CHAIRMAN: Part V deals with the powers of a company.

Senator BRUNT: I think it gives just the general powers that are required.

Mr. FRASER: It is substantially identical with section 7 of the Pipe Lines Act.

The CHAIRMAN: Clause 62?

Carried.

The CHAIRMAN: Clause 63?

Senator KINLEY: The powers of expropriation are already there.

Senator BRUNT: Yes, they are the same as in the Railway Act.

The CHAIRMAN: Clause 63?

Carried.

The CHAIRMAN: Clause 64?

Carried.

The CHAIRMAN: Clause 65?

Carried.

The CHAIRMAN: Clause 66, taking and using lands. Do you wish some explanation of that?

Senator BOUFFARD: They can take Crown land that belongs to a province without any permission on the authorization of the Governor in Council. As a matter of fact, some of these lands belong to the province, and it is with the consent of the Governor in Council without any reference to the provincial authority. It seems to me that that goes very far.

Senator HIGGINS: What do you mean by "lands vested in Her Majesty"?

Senator BOUFFARD: Some are vested in Her Majesty in the right of the dominion, and some are vested in Her Majesty in the right of the provinces.

Senator BRUNT: Did the railways have this same power?

The CHAIRMAN: Yes.

Senator HIGGINS: Then there is no objection.

The CHAIRMAN: Clause 66?

Carried.

The CHAIRMAN: Clause 67?

Carried.

The CHAIRMAN: Clause 68, protection of mines.

Mr. FRASER: This is the same as in the pipe lines act.

The CHAIRMAN: Clause 68?

Carried.

The CHAIRMAN: Clause 69?

Carried.

The CHAIRMAN: Clause 70?

Carried.

The CHAIRMAN: Clause 71?

Carried.

The CHAIRMAN: Clause 72?

Carried.

Senator BRUNT: Just as a matter of interest, why the sixty feet?

Senator KINLEY: That is all they need.

Mr. FRASER: It goes back to the Pipe Lines Act. I would suspect, and this is only speculation, that the reason for this particular width in the earlier act was that it is the practical limit within which pipe laying equipment can operate.

Senator McDONALD (*Kings*): They require that much width in which to operate their machines?

Mr. FRASER: That is right, sir.

The CHAIRMAN: Clause 73?

Carried.

The CHAIRMAN: Clause 74?

Carried.

Senator McDONALD (*Kings*): Are these sections copied from the Pipe Lines Act?

Mr. FRASER: These are almost identical. Clauses 71 to 74 are identical with sections 26 to 29 of the Pipe Lines Act. Clause 75(1) is identical with section 30 of the Pipe Lines Act, save that the reference to section 251 of the Railway Act has been dropped.

Senator BRUNT: Subparagraph (2) is added for the protection of the sulphur people?

Mr. FRASER: Yes.

The CHAIRMAN: Clause 75?

Carried.

The CHAIRMAN: Clause 76?

Senator BRUNT: Stand.

The CHAIRMAN: Does Clause 77 stand along with Clause 76?

Senator BRUNT: Yes.

The CHAIRMAN: Clause 78?

Carried.

The CHAIRMAN: Clause 79?

Senator McDONALD (*Kings*): Is this the same as in the Pipe Lines Act?

Senator BRUNT: Perhaps we could have a short explanation.

Mr. DRIEDGER: This results from a decision of the Supreme Court of Canada in the *Comstock* case in which it was held—not very clearly, perhaps—that provincial Mechanics Liens Acts did not apply to undertakings of this kind, and this section makes it clear that they do apply.

Senator BRUNT: It confers an additional right?

The CHAIRMAN: Very well, Clause 79?

Carried.

The CHAIRMAN: Clause 80?

Carried.

The CHAIRMAN: Clause 81, gas and power licence requirements?

Senator McDONALD (*Kings*): Are Clauses 81 and 82 similar?

Mr. FRASER: Clause 81 is modelled on Section 6(1) of the Exportation of Power and Fluids and Importation of Gas Act. Clause 82 subparagraph (1) is modelled on Section 3(1) of that act.

The CHAIRMAN: Clause 81?

Carried.

The CHAIRMAN: Clause 82?

Carried.

The CHAIRMAN: Clause 83?

Carried.

The CHAIRMAN: Clause 84?

Carried.

The CHAIRMAN: Clause 85, regulations?

Senator BOUFFARD: I would move an amendment to Clause 85. It is an amendment to subparagraph (b) which would make it require that a licence shall not exceed twenty-five years' duration from the date fixed for the licence. The subparagraph says "the duration of licences, not exceeding twenty-five years", but there is no date set as to the beginning of the running of the twenty-five years, and it might be a good thing that it be fixed in the licence itself. I would move that after the word "years" the following words be added "a date to be fixed in the licence". That motion is seconded by Senator Brunt.

Senator BRUNT: All the witnesses will be before the Board, and the Board will be in the best possible position to fix the date.

The CHAIRMAN: Is Clause 85 carried as amended?

Carried.

The CHAIRMAN: Clause 86?

Carried.

The CHAIRMAN: Clause 87?

Carried.

Senator BRUNT: May I ask if this is new?

Mr. DRIEDGER: Not entirely. I think it is based on a section in the Pipe Lines Act. I think Mr. Fraser has the reference.

Mr. FRASER: It is Section 52 of the Pipe Lines Act.

Senator BOUFFARD: Subject to the amendments that will be discussed later on, because a provincial corporation such as the Hydro will have to change its method of accounting.

Senator McDONALD (*Kings*): Mr. Chairman, could I ask Mr. Fraser what is new here in the regulations?

Mr. FRASER: I wonder if I may do it by reading section 52 of the Pipe Lines Act, which is, in part, comparable with this section.

Section 52 of the Pipe Lines Act reads:

The Board may prescribe or make regulations with respect to

- (a) the manner in which the accounts of a company shall be kept;
- (b) the classes of property for which depreciation charges may properly be included under operating expenses, and the rate or rates of

depreciation that shall be charged with respect to each of such classes of property; and

(c) a uniform system of accounts applicable to any class of company.

Senator McDONALD (*Kings*): You have no paragraph (d) in section 52?

Mr. FRASER: That is right.

Mr. DRIEDGER: That follows section 53 of the Pipe Lines Act which says:

“(1) Every person constructing or operating a pipe line for the transportation of oil or gas shall prepare and furnish to the Board returns of its capital, traffic, revenues, expenses and all other information required by the Board.

(2) The returns required by subsection (1) shall be signed and attested by such person or persons and shall be made for such periods as the Board may direct.

That is substantially the same as (d).

Senator KINLEY: This only means they have got to keep the books according to what the National Energy Board decides.

The CHAIRMAN: Shall section 88 stand?

Stand.

The CHAIRMAN: Shall section 89 carry?

Carried.

The CHAIRMAN: Shall section 90 carry?

Carried.

The CHAIRMAN: Shall section 91 carry?

Senator BOUFFARD: I want to have assurance from the Deputy Minister of Justice that section 90 applies not only to the Crown in the right of the Dominion but also the Crown in the right of the provinces.

Mr. DRIEDGER: I should think so, yes.

Senator BRUNT: Is this report to Parliament new?

Mr. DRIEDGER: I do not think there was any such provision in the Pipe Lines Act before, but it is a standard provision.

Mr. FRASER: It is similar to a provision which appears in the Aeronautics Act.

The CHAIRMAN: Shall section 91 carry?

Carried.

The CHAIRMAN: Shall section 92 carry?

Carried.

The CHAIRMAN: Shall section 93 carry?

Carried.

The CHAIRMAN: Shall section 94 carry?

Carried.

The CHAIRMAN: Shall section 95 carry?

Senator BRUNT: Is there anything new in section 95?

Mr. FRASER: These transitional powers are all new, in effect, for they deal with new situations.

Carried.

Senator McDONALD (Kings): Perhaps Mr. Fraser might give us in his own words an explanation of section 95.

Mr. FRASER: What is intended here is to arrange to transfer to the new board the functions which have previously been carried out either by the Board of Transport Commissioners or by the Standards Branch of the Department of Trade and Commerce, as the case may be, with the least possible disruption of existing relationships and rights and interests in these industries, consistent with public interest. We have attempted to direct our efforts towards making this changeover as painless as possible. This is the underlying spirit of the thing, sir, and I hope we have been successful.

The CHAIRMAN: Shall section 95 carry?

Carried.

The CHAIRMAN: I think we have agreed to stand section 96. Shall section 96 stand?

Stand.

The CHAIRMAN: Shall section 97 carry?

Carried.

The CHAIRMAN: Shall section 98 carry?

Carried.

The CHAIRMAN: Shall section 99 carry?

Carried.

The CHAIRMAN: Shall section 100 carry?

Carried.

The CHAIRMAN: Shall section 101 carry?

Carried.

Senator BOUFFARD: There are a few sections standing and we cannot finish with them until we hear the minister with respect to the amendments we have proposed. We have proposed a change in the definition of international power line and of a pipe line. The purpose of the amendment is as follows. At the present time most provinces have hydro commissions. They have built up power developments and power lines. Some provinces have developed pipe lines through their own efforts or through the efforts of companies. If we follow the definition as it exists at the present time, most of these power developments and power lines will fall under the jurisdiction of the new board and will be completely outside any jurisdiction of the provinces, even though the provinces have been responsible in building up these lines. This will result on account of the fact that a small amount of power may be exported through such facilities.

We think it would be quite unjust on the part of the federal Government to take control of all these lines, electric or pipe lines, that have been built up in the past, due to the fact that some of the power that goes through these lines is going to be exported.

Senator McDONALD (*Kings*): Your amendments would protect provincial rights?

Senator BRUNT: It would protect existing lines.

Senator BOUFFARD: We say a power line will not be an international power line if it is completely within the jurisdiction of one province and if the delivery of the power to be exported is done within the province. On the other hand, the line that will come and join the Canadian line will be an international power line. In other words, if you have a power line that starts from Niagara Falls and goes to within half a mile of the border and there it is joined by a power line from a United States company which gets that power for delivery or export into the United States, we say it would not be just that the hydro commission power line going to within half a mile of the border should be deemed to be an international power line and fall under the jurisdiction of the new board, but that the line of the company that comes and gets the power in Ontario should be considered an international power line. It is not necessary to have the whole of Niagara Falls system built up by the hydro commission—and the same thing applies to Quebec—fall under the new Energy Board and under the jurisdiction of the federal Government. That is the whole purpose of the amendments.

Senator HORNER: As it now stands the Ontario Hydro Commission would come completely under the federal board?

Senator BOUFFARD: Yes, and the same thing would happen in Quebec, British Columbia and New Brunswick. We want to be sure that these lines which have been built up and which have been under the control of the provincial Governments will not fall into the control of the federal board.

Senator McDONALD (*Kings*): Why were these definitions not made right when the act was prepared? Were these not thought of at the time?

Senator BRUNT: This is something entirely new, and the more you get into it the more you find out about it. That is why the minister was so very pleased to see us this morning.

Senator McDONALD (*Kings*): But were no discussions held with a view to protecting the rights of the provinces in all this?

Senator BOUFFARD: Possibly not. If a pipe line is engaged in the business of delivering oil, or gas, or sulphur to a point within its own boundaries it should not be necessary for it to come under the authority of this board, to have the whole system all under the control of the federal authority, when up to now it has been under the control of a provincial company or a provincial Government. That is the only thing we are putting before the committee this morning.

Senator McDONALD (*Kings*): Then we will have to meet again.

The CHAIRMAN: Yes, undoubtedly.

Senator HIGGINS: Mr. Chairman, I want to ask a question about the taking of land.

I suppose the rights of private individuals in regard to their land are being looked after still, I see this in the bill, in section 62, subsection 1, paragraph (b), which reads:

62. (1) A company may, for the purposes of its undertaking, subject to the provisions of this Act and its Special Act,

(b) purchase, take and hold of and from any person any land or other property necessary for the construction, maintenance and operation

of its pipe line and alienate, sell or dispose of any of its land or property that for any reason has become unnecessary for the purpose of the line;

Now, how is this done? Suppose that the parties do not agree, then what happens? Is the land then expropriated?

Mr. DRIEDGER: Clause 75 of this bill incorporates the expropriation sections of the Railway Act.

SENATOR HIGGINS: I see according to section 68 of the bill that mining companies are well protected, the provision affecting them reads as follows:

68. No company shall, without the authority of the Board, locate the line of its proposed pipe line, or construct the pipe line or portion thereof, so as to obstruct or interfere with or injuriously affect the working of or the access or adit to a mine then open, or for the opening of which preparations are, at the time of such location, being lawfully and openly made.

According to that section you cannot interfere with mining operations.

Now, according to section 64 of the bill the owner of land is entitled to have a certain procedure followed where additional lands are taken from him. Now, I do not know anything about pipe lines, I have never seen one and I have never seen any of them building. But suppose that I have a house, and a backyard. Is that company empowered to come into my backyard and take it over?

Senator KINLEY: That's what they did in the Strait of Canso.

Mr. DRIEDGER: They can do it only by complying with the provisions of the Railway Act.

Senator HIGGINS: Well, I do not know about the provisions of the Railway Act.

Mr. DRIEDGER: That provides a method of negotiations. The Railway Act fully protects the owners of land against the exercise of these powers.

Senator HIGGINS: Well then, why has this provision to be put in the bill? Under section 73 lands may be taken. I will read that section:

73. Subject to section 74, the lands that may, without the consent of the owner, be taken for the right of way of a pipe line shall not exceed sixty feet in breadth.

Section 73 apparently requires that no notice be given. Now, section 74 requires that a notice be given and certain procedures followed before the board. Now, why are sections 68 and 74 necessary? Would not the Railway Act apply to these cases?

Mr. DRIEDGER: Yes, but if you want additional land this is the procedure you have to follow. A pipe line company may take land according to section 73, limited to 60 feet, but if it wants additional land on top of that it must get the consent of the board.

Senator BRUNT: This takes place in Ontario all the time in connection with highway construction. First they start out by taking a strip 100 feet wide, and then they come back and take a little more, and in all they may come back four or five times and finally end up with a highway 200 feet in width. If they cannot agree, the matter can be taken to arbitration.

The CHAIRMAN: We will adjourn now at the call of the Chair.

